

STATE OF NORTH CAROLINA

BEFORE THE
DISCIPLINARY HEARING
COMMISSION OF THE
NORTH CAROLINA STATE BAR
23 DHC 11

WAKE COUNTY

<p>NORTH CAROLINA STATE BAR, Plaintiff</p> <p>v.</p> <p>NICOLLE T. PHAIR, Attorney, Defendant</p>	<p>ANSWER</p>
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Defendant, Nicolle Phair, reserving her right to amend the responses hereto as information becomes available, including through discovery, and hereby respectfully answers the Complaint as follows:

ANSWER

1. The allegations contained in paragraph 1 of the Complaint are admitted.
2. The allegations contained in paragraph 2 of the Complaint are admitted. Ms. Phair further notes that she was, at all times referred to herein, appearing before a court or tribunal, subject to the inherent authority of the court to regulate the conduct of the attorneys appearing before it, pursuant to N.C. Gen. Stat. § 84-36.
3. The allegations contained in paragraph 3 of the Complaint are admitted.
4. The allegations contained in paragraph 4 of the Complaint are admitted.
5. The allegations contained in paragraph 5 of the Complaint are admitted.
6. The allegations contained in paragraph 6 of the Complaint are admitted.

7. The allegations contained in paragraph 7 of the Complaint are admitted.
8. The allegations contained in paragraph 8 of the Complaint are admitted.
9. The allegations contained in paragraph 9 of the Complaint are admitted.
10. The allegations contained in paragraph 10 of the Complaint are denied.
11. The allegations contained in paragraph 11 of the Complaint are denied.
12. The allegations contained in paragraph 12 of the Complaint are admitted.
13. The allegations contained in paragraph 13 of the Complaint are admitted.
14. The allegations contained in paragraph 14 of the Complaint are admitted.
15. The allegations contained in paragraph 15 of the Complaint are admitted.
16. The allegations contained in paragraph 16 of the Complaint are admitted.
17. The allegations contained in paragraph 17 of the Complaint are admitted.
18. The allegations contained in paragraph 18 of the Complaint are admitted.
19. The allegations contained in paragraph 19 of the Complaint are admitted.
20. The allegations contained in paragraph 20 of the Complaint are admitted.
21. The allegations contained in paragraph 21 of the Complaint are denied.
22. The allegations contained in paragraph 22 of the Complaint are denied.
23. The allegations contained in paragraph 23 of the Complaint are denied.
24. The allegations contained in paragraph 24 of the Complaint are denied.
25. The allegations contained in paragraph 25 of the Complaint are denied.

26. The allegations contained in paragraph 26 of the Complaint are denied.
27. The allegations contained in paragraph 27 of the Complaint are admitted.
28. The allegations contained in paragraph 28 of the Complaint are denied.
29. The allegations contained in paragraph 29 of the Complaint are admitted.
30. Ms. Phair is without sufficient information or recollection to admit or deny the allegations contained in paragraph 30 of the Complaint and therefore denies same.
31. Ms. Phair is without sufficient information or recollection to admit or deny the allegations contained in paragraph 31 of the Complaint and therefore denies same.
32. Ms. Phair is without sufficient information or recollection to admit or deny the timing or sequence of the allegations contained in paragraph 32 of the Complaint and therefore denies when it occurred but there was a request by the judge to approach regarding the case status.
33. The allegations contained in paragraph 34 of the Complaint are denied.
34. Ms. Phair is without sufficient information or recollection to admit or deny the reasons, sequence or timing of a lunch break, of the allegations contained in paragraph 35 of the Complaint and therefore denies same but does admit that a recess was announced.
35. The allegations contained in paragraph 35 of the Complaint are admitted.
36. The allegations contained in paragraph 36 of the Complaint are admitted.
37. The allegations contained in paragraph 37 of the Complaint are admitted and denied in part. At the time she tried this tactic, Ms. Phair genuinely believed that it was an acceptable strategy. She also believed that, through the course of the hearing, it would become apparent to everyone in the courtroom that the alleged victim could not positively identify Mr. Hart as

the defendant and that it would not take long for this to occur. Ms. Phair did not believe that the identity switch would last long and that the identities of the persons involved would soon become obvious to all. She never got to a trial of this matter to employ the tactic. Ms. Phair never intended to deceive anyone in the courtroom and when the judge inquired, she voluntarily told him there was a strategy based on identity of the Defendant being at issue.

38. The allegations contained in paragraph 38 of the Complaint are denied.
39. The allegations contained in paragraph 39 of the Complaint are denied.
40. The allegations contained in paragraph 40 of the Complaint are denied.
41. The allegations contained in paragraph 41 of the Complaint are denied.
42. The allegations contained in paragraph 42 of the Complaint are denied.
43. The allegations contained in paragraph 43 of the Complaint are denied.
44. The allegations contained in paragraph 44 of the Complaint are admitted and denied in part. It is admitted that the state troopers in the court room looked Mr. Harrington up on the computer program available in the courtroom to see who he was based on Ms. Phair assertion that identity was at issue.
45. The allegations contained in paragraph 45 of the Complaint are admitted.
46. The allegations contained in paragraph 46 of the Complaint are admitted.
47. The allegations contained in paragraph 47 of the Complaint are admitted.
48. The allegations contained in paragraph 48 of the Complaint are denied.
49. The allegations contained in paragraph 49 of the Complaint are denied.
50. The allegations contained in paragraph 50 of the Complaint are admitted.
51. The allegations contained in paragraph 51 of the Complaint are denied.

52. The allegations contained in paragraph 52 of the Complaint are admitted. The Court did not, however, hold Ms. Phair in contempt as she was honest with the court. This was the first time Ms. Phair realized that her tactic was problematic, as she never intended to mislead anyone, or made any false statements.
53. The allegations contained in paragraph 53 and subparts i., ii, iii. and iv. of the Complaint are denied.
54. The allegations contained in paragraph 54 of the Complaint do not require a response.
55. The allegations contained in paragraph 55 of the Complaint are admitted.
56. The allegations contained in paragraph 56 of the Complaint are admitted.
57. The allegations contained in paragraph 57 of the Complaint are admitted upon information and belief.
58. The allegations contained in paragraph 58 of the Complaint are admitted in that Ms. Phair was present with her client on this morning of January 29.
59. Ms. Phair is without sufficient information or recollection to admit or deny the allegations contained in paragraph 59 of the Complaint and therefore denies same.
60. The allegations contained in paragraph 60 of the Complaint are denied.
61. The allegations contained in paragraph 61 of the Complaint are admitted.
62. The allegations contained in paragraph 62 of the Complaint are admitted.
63. The allegations contained in paragraph 63 of the Complaint are admitted.
64. Ms. Phair is without sufficient information or recollection to admit or deny The allegations contained in paragraph 64 of the Complaint they are denied.

65. The allegations contained in paragraph 65 of the Complaint are admitted. Ms. Phair is very sorry for not returning to court on time. She had an emergency and good reason for returning to court late.
66. The allegations contained in paragraph 66 of the Complaint are admitted.
67. Ms. Phair is without sufficient information to admit or deny the allegations contained in paragraph 67 of the Complaint, they are denied.
68. The allegations contained in paragraph 68 of the Complaint are denied.
69. Ms. Phair is without sufficient information to admit or deny the allegations contained in paragraph 68 of the Complaint and therefore denies same.
70. Ms. Phair is without sufficient information or recollection to admit or deny the allegations contained in paragraph 69 of the Complaint and therefore denies same.
71. The allegations contained in paragraph 70 of the Complaint are denied.
72. The allegations in paragraph 71 of the Complaint are admitted.
73. The allegations contained in paragraph 72, it is admitted the court issued an order for Butler's arrest and a show cause for Defendant to appear and show cause, but as to all other allegations, Ms. Phair denies all other allegations.
74. Ms. Phair is without sufficient information or recollection to admit or deny the allegations contained in paragraph 73 to admit or deny and therefore denies same.
75. The allegations contained in paragraph 74 of the Complaint are denied.
76. The allegations contained in paragraph 75 of the Complaint are denied.
77. The allegations contained in paragraph 75 of the Complaint are denied.
78. The allegations contained in paragraph 76 of the Complaint are denied.

79. The allegations contained in paragraph 77 of the Complaint are admitted between 3:30 and 4pm Ms. Phair returned to Court after a family emergency.
80. The allegations contained in paragraph 78 of the Complaint are denied.
81. The allegations contained in paragraph 79 of the Complaint are denied.
82. The allegations contained in paragraph 80 of the Complaint are admitted, and her cases in domestic court were addressed and continued without incident.
83. The allegations contained in paragraph 81 of the Complaint are denied.
84. The allegations contained in paragraph 82 a-c of the Complaint are denied.
85. The allegations contained in paragraph 83 of the Complaint are denied.
86. The allegations contained in paragraph 84 of the Complaint are admitted.
87. The allegations contained in paragraph 85 of the Complaint are admitted upon information and belief.
88. The allegations contained in paragraph 86 of the Complaint are admitted.
89. The allegations contained in paragraph 87 of the Complaint are admitted.
90. The allegations contained in paragraph 88 of the Complaint are admitted upon information and belief.
91. The allegations contained in paragraph 89 of the Complaint are admitted upon information and belief.
92. That Defendant Nicole T. Phair reserves the right to modify her answer in this matter.

WHEREFORE, Defendant, NICOLLE T. PHAIR, prays that this Disciplinary Hearing Panel enter an order:

1. Dismissing the Complaint herein, or in the alternative
2. Disciplining Defendant in a manner that allows her to continue practicing law, as she at no time acted with an intent to deceive or provide false information to a court and
3. recognizes her desire to represent clients zealously and her cooperation with clients and the court; and
4. Providing Defendant such other and further relief as the Panel deems just and proper.

RESPECTFULLY SUBMITTED, this the 28th day of August, 2023.



Nicolle T. Phair

Pro Se Defendant

State Bar No. 23464

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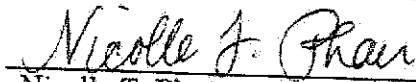
CERTIFICATE OF SERVICE

This is to certify that the foregoing Answer was served on Plaintiff by email:

Robert Weston
rweston@ncbar.gov

Savannah Perry
sperry@ncbar.gov

This the 28th day of August, 2023.



Nicolle T. Phair
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